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road company is not bound to furnish a light at a passenger shed, placed at a flag stop at which trains did not usually stop and passengers were not expected. Therefore it is not liable for injuries due to the absence of a light, received by one alighting at such place in the nighttime.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. § 1148; Dec. Dig. § 286 (7).* 2 Va.-W. Va. Enc. Dig. 700.]

3. Carriers (§ 286 (1)*)—Carriage of Passengers—Liability of Carrier.—Where a passenger who had been refused a ticket to the place to which she desired to go boarded the train, and on the conductor's refusal to stop at that station paid her fare to a nearby station, where she was assisted in alighting, the railroad company is not liable for injuries received by her in attempting to go for assistance to a flag station in which she saw light, though the way to the flag station was defective, and she stepped through rotten boards; such flag station not being intended for the use of passengers.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. §§ 1142, 1152, Dec. Dig. § 286 (1).* 2 Va.-W. Va. Enc. Dig. 700.]

Error to Circuit Court, Fairfax County.

Action by Mrs. Lucy C. Mitchell against the Southern Railway Company. There was a judgment for defendant, and plaintiff brings error. Affirmed.

Leo P. Harlow, for plaintiff in error.

Moore, Keith, McCandlish & Hall and *John S. Barbour*, all of Fairfax, for defendant in error.

POCAHONTAS GUANO CO. *v.* COLLINS PLASS CO.

March 16, 1916.

[88 S. E. 66.]

1. Sales (§ 388*)—Remedies of Seller—Action for Breach of Contract—Instructions.—In an action for breach of a contract to purchase guano sacks, the contention of defendant that it was not to be bound until the contract was reduced to writing and signed by the parties was fairly submitted to the jury by instructions that if plaintiff and defendant verbally contracted for a sale of bags to be manufactured, delivered, and paid for within one year, and the terms of the contract were in all respects definitely understood and agreed upon, the contract is a binding obligation on both parties, but that, if it was not, the intention of defendant to be bound unless the terms were fully embodied in a written instrument attested by the signatures of both parties, the jury shall find that there was no

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

contract, and the circumstance that they do intend a subsequent writing is strong evidence that they do not intend to be bound by the preliminary verbal agreement as to terms.

[Ed. Note.—For other cases, see Sales, Cent. Dig. § 1108; Dec. Dig. § 388.* 12 Va.-W. Va. Enc. Dig. 9.]

2. Sales (§ 38 (1)*)—Fraud—Elements—Relation of Parties.—

Where a seller, in response to the buyer's offer for guano sacks, telegraphed to the seller's agent asking for a higher offer, but later in the day authorized him to accept the offer made, the concealment by the agent of the second message, and representation that the seller required a higher price, did not constitute a false representation of a material fact or failure to disclose a material fact; neither the seller nor its agent being in a relation of confidence toward the buyer.

[Ed. Note.—For other cases, see Sales, Cent. Dig. §§ 65, 76; Dec. Dig. § 38 (7).* 12 Va.-W. Va. Enc. Dig. 14.]

Error to Corporation Court of Lynchburg.

Motion by the Collins-Plass Company for a judgment against the Pocahontas Guano Company. Judgment for plaintiff, and defendant brings error. Affirmed.

REID et al. *v.* PENFIELD.

March 16, 1916.

[88 S. E. 61.]

1. Taxation (§ 719*)—Tax Sales—Redemption.—Code 1904, § 650, provides that the owner to redeem land sold for taxes shall pay not only the amount shown by the record to be due, but such additional taxes, levies, costs, and charges as the purchaser may have paid since the sale, with interest. Section 661 provides for the defeat of a tax title by proof that payment or redemption of the real estate was prevented by concealment or fraud on the part of the purchaser. Defendants purchased complainant's lands at tax sale, and though the amount of the taxes, etc., as shown by the record was tendered them and they were requested to state what further taxes and expenses had been paid, they failed to do so, thus precluding redemption within time. Held that, as the taxes and expenses paid by a purchaser cannot be ascertained save from him, defendants' tax title should be set aside, their concealment preventing redemption.

[Ed. Note.—For other cases, see Taxation, Cent. Dig. § 1448; Dec. Dig. § 719.* 13 Va.-W. Va. Ency. Dig. 164.]

2. Estoppel (§ 77*)—Dealing with Person with Authority.—Where purchasers of land sold for taxes made no objection to the authority

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.